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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. 2:05-cr-125 MCE
	)	
Plaintiff,	)	APPLICATION AND ORDER FOR
	)	DISCHARGE OF WRIT OF HABEAS
v.	)	CORPUS AD TESTIFICANDUM
	)	REGARDING <b>NAJEEULLAH HAKEEM</b>
DARNELL FOSTER,	)	<b>WHEELER</b>
	)	
Defendant.	)	
_____	)	

Application

Plaintiff United States of America, through undersigned counsel, hereby applies for an order discharging the Writ of Habeas Corpus Ad Testificandum for Najeeullah Hakeem Wheeler, aka Najee Wheeler, issued April 15, 2008. The Writ specified that Mr. Wheeler was to be brought from San Quentin State Prison to testify on May 8, 2008, in the above-captioned matter. As the Court is well aware, Mr. Wheeler was brought to court and testified at the evidentiary hearing regarding a petition for violation of Mr. Foster's supervised release, based on events occurring December 14, 2007. During the course of that hearing, Mr. Wheeler testified that he expects to be paroled on Sunday, May 11, 2008.

1 It is not possible for the United States Marshal to return Mr.  
2 Wheeler to San Quentin in time for his release on that date.

3 At the conclusion of Mr. Wheeler's testimony, the undersigned  
4 prosecutor informed the Court that I would take the necessary steps  
5 to confirm the release date and to facilitate the release as  
6 scheduled. I have communicated with an official at San Quentin, who  
7 has informed me that Mr. Wheeler's scheduled parole date is indeed  
8 Sunday, May 11, 2008. Attached hereto is a document from San  
9 Quentin showing that parole date.<sup>1</sup> However, I am further informed  
10 that prison officials will not send a teletype to the Sacramento  
11 County Jail withdrawing their detainer and directing Mr. Wheeler's  
12 release on parole until Monday, May 12, 2008, to avoid the  
13 possibility that Mr. Wheeler might be released earlier than his  
14 scheduled release date, as has happened in other cases in the past.

15 The government asks that the Court issue the attached order to  
16 confirm that there is no longer any hold on Mr. Wheeler from this  
17 Court as a result of the Writ, so that Mr. Wheeler may be released  
18 from custody on parole as soon as the state prison authorities  
19 determine he is eligible.

20 To the extent that matters set forth herein are based on extra-  
21 record facts, I declare them to be true to the best of my knowledge  
22 and belief. Executed under penalty of perjury this ninth day of  
23 May, 2008.

McGREGOR W. SCOTT  
United States Attorney

24  
25 by /s/ Samantha S. Spangler  
Samantha S. Spangler  
Assistant U.S. Attorney  
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27  
28 <sup>1</sup> I have redacted the name, address, and telephone number of  
the person in whose home Mr. Wheeler is expected to reside.

ORDER

Good cause appearing, the Court hereby orders:

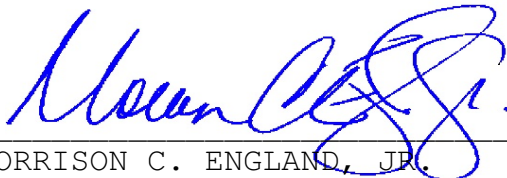
The Writ of Habeas Corpus Ad Testificandum, issued April 15, 2008, to bring Najeeullah Hakeem Wheeler, aka Najee Wheeler, from San Quentin State Prison to this Court on May 8, 2008, is hereby discharged as having been completed.

The Court has been informed that Mr. Wheeler is scheduled to be paroled on or about May 11, 2008. The Marshal will be unable to return Mr. Wheeler to San Quentin State Prison in time for him to be released from there. The Court has been further informed that Mr. Wheeler may be released on parole from the Sacramento County Jail as soon as state prison officials withdraw their detainer and direct his release.

The Court hereby orders that the Writ issued in this case, having been discharged, shall not interfere in any way with Mr. Wheeler's release on parole by state authorities.

IT IS SO ORDERED.

Dated: May 12, 2008

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE